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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 8, 1999

APPLICATION OF

WASHINGTON GAS LIGHT COMPANY

CASE NO. PUE980895

For a further amendment to Pilot
Delivery Service Program

ORDER ON MOTION

On August 16, 1999, Washington Gas Light Company ("WGL" or "Company") filed a motion ("August 16 Motion") with the Commission proposing certain amendments to the Company's Pilot Delivery Service Program ("pilot program" or "pilot"). WGL requested that its pilot program be modified to authorize the Company to: (i) increase the participation levels for its commercial and industrial customer class and its group metered apartment customer class from the currently authorized levels; (ii) modify the balancing provision to allow the Company to adjust the amount of gas delivered by suppliers to the Company's city-gate on certain days of the year and make the Capacity Assignment Option available to suppliers at WGL's discretion; (iii) accept suppliers' customer participation forms on a weekly basis rather than on a monthly basis; (iv) replace the supplier's annual and monthly balancing options with daily balancing options; and (v) offer an additional billing option that would allow suppliers to issue a single bill for all applicable charges.

As originally proposed by WGL and approved by the Commission, each of the Company's firm sales classes has the option of purchasing its gas commodity requirements from third-party gas suppliers while obtaining firm delivery service from WGL, for the duration of the two-year program. As originally approved, in the first year of the pilot, up to ten percent (10%)

of customers in each of the Company's firm sales classes would be allowed to participate and, in the second year, up to twenty percent (20%) of such customers would be allowed to participate.¹

Subsequently, the Company twice requested and received Commission approval to increase the level of participation in the pilot. Specifically, the Company was authorized to expand the number of group metered apartment customers eligible to participate in the first year of the pilot from ten percent (10%) of the customers in that class to the number of applications received on behalf of customers in that customer class on or before October 9, 1998, or approximately thirty percent (30%),² and to expand the number of commercial and industrial customers eligible to participate in the first year of the pilot from ten percent (10%) of the customers in that class to the number of applications received on behalf of customers in that customer class on or before December 9, 1998, or approximately fifteen percent (15%).³

In its August 16 Motion, WGL requests that it be permitted to expand the number of group metered apartment customers eligible for service under Rate Schedule No. 3A from thirty percent (30%) of the customers in that class to forty percent (40%), and the number of commercial and industrial customers eligible for service under Rate Schedule No. 2A from fifteen percent (15%) of such customers to thirty percent (30%). The Company states that it would attempt to minimize oversubscription of these two classes in the second year of the pilot by accepting information from suppliers on a weekly basis and closing the pilot to additional customers during the second year once the customer class was fully subscribed.

WGL also requests approval of certain other changes in the terms and conditions for participation in the pilot. First, it requests authority to adjust the amount of gas delivered to its city-gate by suppliers on days of abnormally warm weather when more gas may be delivered to the Company than the Company's customers and storage facilities together can accommodate. The Company states that this would be a temporary measure to enable it to ensure system

¹ The Commission initially approved the pilot on June 18, 1998, in Case No. PUE971024. *Application of Washington Gas Light Company*, 1998 S.C.C. Ann. Rept. 390.

² *Application of Washington Gas Light Company*, 1998 S.C.C. Ann. Rept. 429.

³ *Application of Washington Gas Light Company*, 1998 S.C.C. Ann. Rept. 434.

integrity until such time that the Company implements daily balancing.⁴ WGL states that it would notify suppliers 24 hours in advance of any reduction to a supplier's delivery.

Second, WGL requests that it be authorized to make the Capacity Assignment Option available at its discretion. According to WGL, suppliers would continue to have the option of using the Company's upstream pipeline capacity for their deliveries, but the Company would have the discretion to withhold such capacity. WGL is concerned that suppliers may use the Company's upstream capacity only when the market price of that capacity exceeds the Company's average capacity cost. The Company states that as it experiences system growth, it must be able to use its upstream capacity to serve its growing requirements.

As stated, WGL proposes to add an additional billing option effective with the commencement of the second year of the pilot on January 1, 2000. This option would permit the issuance of a single bill by the supplier for all applicable charges, including the Company's System Charges and Distribution Charges. Finally, the Company requests permission to accept suppliers' customer participation forms on a weekly, rather than a monthly, basis.

On August 27, 1999, the Commission's Staff filed a response to the August 16 Motion stating that the Staff had reviewed the motion and believed the proposed amendments to the pilot were significant enough to warrant an opportunity for comments by Staff and other interested parties.

By Order entered August 31, 1999, the Commission granted Staff's request and invited Staff and interested parties to respond to the August 16 Motion on or before September 17, 1999, and provided WGL an opportunity to reply to any such responses on or before October 6, 1999.

On September 17, 1999, Staff filed comments expressing concerns about certain of WGL's proposed modifications and requesting that the August 16 Motion be denied as filed.

⁴ Currently, suppliers participating in the pilot have two balancing options: (i) the annual balancing option, requiring a supplier to deliver a level amount of gas to the Company's city-gate throughout the year; and (ii) the monthly balancing option which requires the supplier to deliver a level amount of gas to the city-gate on each day of every month. The Company explains that it is developing a daily balancing option under which the amount of gas that the supplier delivers to WGL's city-gate each day is adjusted to reflect each customer's expected requirements for that day. WGL anticipates that daily balancing will be available effective April 1, 2001, assuming the pilot is continued beyond the second year.

Staff stated that further amendments to the pilot program would result in significant changes in the terms, conditions, and policies of the pilot program. According to Staff, the impact of such changes could impact the validity of data collected from the pilot and have an adverse effect on Staff's review of the entire pilot. Staff added that the pilot should be stabilized to permit Staff and the Company to assess adequately the results of the pilot and its effect on customers, suppliers, and the Company.

Additionally, Staff observed that there are still issues about the application and collection of gross receipts taxes that have not been resolved by the General Assembly. Staff contended that expansion of the pilot program would not provide new or additional data concerning retail access and that further increases in the size of the pilot would exacerbate the loss of tax revenues until that issue is resolved.

Staff stated that it had no objections to WGL's request that it be authorized to adjust the amounts of gas delivered by suppliers to the Company's city-gate, as long as there are no objections from suppliers. However, Staff opposed the Company's proposal to restrict the availability of upstream capacity for supplier use. Staff stated that, currently, the pilot tariff allows suppliers, at the suppliers' option, to use the Company's upstream capacity assigned to pilot participants to deliver the customers' gas. Staff observed that WGL's proposal would make such upstream capacity available solely at the Company's discretion, with the result that a supplier's ability to serve customers could be restricted if the Company elects not to release the capacity and the supplier is unable to obtain other upstream capacity. Staff added that if WGL does not release upstream capacity upon request by suppliers, the Company could increase its exposure to stranded costs associated with such capacity.

Staff stated that it does not oppose the Company's proposal to permit suppliers to provide a single bill, but Staff believes that such billing should be accepted subject to certain conditions. The conditions are: (i) participation forms provided to customers should include a check off item that indicates that the customer is aware that the supplier is preparing his bill, and educational literature provided to customers should include the information that the customer

still has access to the Company and the Commission for complaint resolution regarding the bill; (ii) WGL's procedures for billing by suppliers should be reviewed and accepted by Staff; and (iii) the Company must adhere to the tariff provisions concerning late payment charges and notices for disconnection. In addition, Staff recommended that the date that payment was received by the supplier should be the payment date for the Company and should be used to determine the application of late payment fees and disconnection notices.

Finally, Staff noted that the Company's pilot program should be subject to the generic code of conduct that will be adopted in Case No. PUE980812 once a final order is issued in that proceeding. Staff stated that at the time the generic code of conduct is adopted, WGL should file tariff revisions reflecting the changes necessary to conform its present code to the generic code of conduct.

On October 6, 1999, WGL filed a reply to Staff's comments. In response to Staff's objection to increased participation levels, the Company stated that if it is not permitted to increase the participation level of the group metered apartment class in the second year of the pilot, it would be required to return approximately one-third of the first-year participants at the end of the first year. The Company reiterated its request to permit all current participants in the group metered apartment customer class to continue in year two and to permit an additional ten percent (10%) of its customers to participate in year two, for a total of forty percent (40%). WGL pointed out that an increase of ten percent (10%) of its customers in the group metered customer class would be consistent with the pilot program as originally proposed by the Company and approved by the Commission. With respect to commercial and industrial customer class, WGL stated that it will lower its requested increase from thirty percent (30%) of such customers to twenty-five percent (25%), also constituting an increase of an additional ten percent (10%), consistent with the originally approved pilot program.

With respect to the Capacity Assignment Option, WGL stated that it requests permission to withhold upstream capacity because, under the current relevant tariff provision, the Company may be faced with the dilemma of having to acquire additional capacity in the market, possibly

at a higher cost, to serve its system requirements when it is required to release upstream capacity upon a supplier's request.

Turning to the Company's proposal to offer a third billing option, the Company stated that it did not oppose the three conditions recommended by Staff. The Company requested, however, that the first condition (requiring the Company to inform customers that they will continue to have access to the Company and the Commission to assist in resolving billing disputes) be modified to clarify that the referenced billing disputes will be those concerning charges for utility distribution service, not charges related to commodity sales of gas.

WGL responded to Staff's concerns that the proposed changes to the pilot would significantly change the terms and conditions of the pilot program. The Company pointed out that none of the suppliers, the entities that would be most directly affected by the changes, filed a response to the Company's August 16 Motion and thus apparently do not anticipate any adverse consequences from the proposed changes. In response to Staff's concern about the impact of the proposed changes on the validity of data collected in the pilot, WGL countered that the pilot program should not be static but should be revised based on on-going experience, particularly in the case of operational changes. The Company added that there can be little benefit from testing a pilot design that on-going experience shows should not be part of the future permanent program.

Further, the Company disagreed with Staff that the pilot should not be expanded because of unresolved tax issues. WGL stated that increasing the participation levels as proposed would result in a relatively *de minimis* reduction in the annual gross receipts tax collections. The Company added that it is actively working with others to propose a resolution to the gross receipts tax issue applicable to natural gas sales to the General Assembly in the 2000 legislative session.

NOW THE COMMISSION, having considered the matter, is of the opinion that the Company's August 16 Motion should be granted in part and denied in part.

We will permit WGL to expand the number of group metered apartment customers eligible for service under Rate Schedule No. 3A in the second year of the pilot by an additional ten percent (10%) of customers and the number of commercial and industrial customers available for service under Rate Schedule No. 2A in the second year of the pilot by an additional ten percent (10%) of customers. As the Company noted, a ten percent (10%) increase in the number of customers in each of these two customer classes in the second year is consistent with the original pilot program design approved by the Commission.

We find the Company's request to modify its pilot program to accept customer information on a weekly basis is reasonable and should be granted. We further find that WGL's proposal to offer a third billing option and allow suppliers to send a single bill, as modified by Staff's three conditions discussed herein, is reasonable. WGL does not oppose Staff's conditions if the proposed condition that WGL inform customers that they will have access to the Company and the Commission for complaint resolution is clarified to apply to complaints involving billing disputes concerning charges for utility distribution service, not charges related to commodity sales of gas. In view of the foregoing, we will grant the Company's request to offer a third billing option, subject to Staff's proposed conditions and the clarification requested by the Company.

We do not find, however, the Company's request that it be authorized to adjust the suppliers' daily contract quantity on exceptionally warm days or its request to release upstream capacity at its discretion to be in the public interest. We are concerned that, taken together, these two modifications would relieve WGL from its responsibility to acquire capacity and storage to serve customers that elect to participate in the pilot program, thus effectively abdicating its role as the supplier of last resort for these customers. If approved, customers who elect to switch to another supplier may not receive reliable service or any service at all, should a supplier fail to procure adequate supplies or capacity or simply decide to get out of Virginia. We believe that it is premature to accept this policy change until additional experience demonstrates that the change would not be contrary to the public interest. Thus, we will deny WGL's request to reduce

the amount of gas delivered by suppliers to its city-gate and to make the Capacity Assignment Option available at its discretion.

Accordingly, IT IS ORDERED THAT:

- (1) WGL's August 16 Motion is granted in part and denied, in part, as discussed herein.
- (2) This matter shall be continued generally.